



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
AGING AND DISABILITY SERVICES ADMINISTRATION
*PO Box 45600 * Olympia, WA 98504-5600*

Notice Concerning September 1, 2010 Rates

August 31, 2010

On July 23, 2010 the Department of Social and Health Services issued a "Notice of Adjustment of Medicaid Nursing Facility Rates Pursuant to RCW 74.46.421." The Notice announced the Department's invocation of RCW 74.46.421, and its intention to issue new Medicaid rates for nursing facilities effective September 1, 2010.

Earlier this year, several nursing facility operators brought a lawsuit against the State in U.S. District Court in Tacoma, challenging both the changes to the Medicaid nursing facility rate methodology adopted by the 2010 Legislature and the July 1 rates resulting from those changes. That case is entitled Eagle Healthcare, Inc. et al. v. Dreyfus, et al.

At the District Court level, the judge refused the plaintiffs' request for a Temporary Restraining Order against implementation of the July 1, 2010 rates. The plaintiffs appealed that decision to the U.S. Court of Appeals for the Ninth Circuit and also filed an emergency motion to prevent the Department from continuing to implement the changes. On August 27, 2010 the Court of Appeals granted the emergency motion and issued an order staying enforcement of the 2010 changes pending resolution of the appeal.

The Ninth Circuit's Order is brief, and leaves several important issues unresolved. This has led the Department to delay implementation of the new rates for September 1 as to all facilities. Once these issues are resolved, the Department may issue another "Notice of Adjustment of Medicaid Nursing Facility Rates Pursuant to RCW 74.46.421" in the future.

Sincerely,

Kathy Marshall, Director
Management Services Division
Aging and Disability Services Administration

